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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/405,520	09/23/1999	MICHAEL O'CONNOR	42390.P6898	9567

7590

07/16/2003

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EXAMINER

NALVEN, ANDREW L

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 07/16/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/405,520

Applicant(s)

O'CONNOR ET AL.

Examiner

Andrew Nalven

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as indicated by the draftsman. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6-7, 10-12, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Matchett et al US Patent No. 5,229,764.

In regards to claims 1, 10, and 15, Matchett discloses an authentication process that provides “continuous biometric checks of a user” (column 3, lines 18-19). Matchett shows data collecting in “the recording of a particular user’s relevant biometric characteristics” (column 4, lines 58-59) and data matching through “the comparison of new biometric data to the user’s reference biometric data” (column 4, lines 65-66).

In regards to claims 2, 11, and 16, Matchett teaches that the authentication process is made more secure by using “a plurality of biometric authentication devices”

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(column 4, lines 48-49). Further, Matchett discloses the storage of digital biometric data in a digital storage device in Figure 3

In respect to claims 3, 7, 12, and 17, Matchett discloses a CPU coupled to a digital storage device and comparative logic circuits Figure 4. The CPU performs the functions of digitizing and storing biometric user data in the digital storage device and maintaining a biometric identity reference for the current user (Figure 1). The CPU sends reference data and new data to the comparison unit to be analyzed and a result signal is generated (column 6, lines 5-9).

In respect to claim 6, Matchett discloses that a particular embodiment of the instant invention "may be used to...protect access to a network" (column 8, lines 9-11).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett US Patent No. 5,229,764 in view of Bianco et al US Patent No. 6,256,737. Matchett's disclosure outlined above lacks a network-based database of biometric user identities. Bianco discloses a biometric authentication system geared towards enterprise networks that places user biometric data on a "biometric server" that

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stores the "collection of data required by the system to authenticate users" (column 2, lines 57-58). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Bianco's network-based system as it would allow a group to deploy an authorization system across a wide geographic area.

6. Claims 5, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett in view of Dalude US Patent No. 6,310,966. Matchett's disclosure outlined above does not include a system of embedding an identity reference into input data. On column 3 lines 46-47, Dalude shows a system wherein biometric identity data in the form of a digital certificate is attached to user data. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Dalude's biometric digital certificates in order to allow verification of the source of user data transmitted across a network.

7. Claims 4, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matchett in view of Mukohaka US Patent No. 5,910,999. Matchett's disclosure outlined above does not include a system that integrates a plurality of biometric readings into a more concise reading. Mukohaka discloses a fingerprinting system on column 12 lines 41-48 that integrates several images into a combined reference filter for use in authenticating users. The integration of several images into a combined filter provides a more accurate reference filter than that of a single image. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Mukohaka's integration method in order to reduce false rejection and false acceptance ratios.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kinsella US Patent No. 6,148,094 discloses a pointing device with a built in biometric sensor. The device records fingerprint information passively in a manner similar to the instant invention's disclosure of a keyboard key in Figure 4.

Any inquiry regarding this communication from the examiner should be directed to Andrew Nalven at (703) 305-8121 during the hours of 7:15 AM – 4:45 PM Monday through Thursday. The examiner can also be reached on alternate Fridays.

In the event that attempts to reach the examiner are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached on (703) 308 – 4789.

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(703) 746 – 7239 (for formal communications intended for entry)

Or:

(703) 746 – 7240 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA 22202, Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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ALN

July 8, 2003

Matthew B. Smithers
MATTHEW SMITHERS
PRIMARY EXAMINER
Art Unit 2134